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MONTANA THIRD JUDICIAL DISTRICT COURT, COUNTY OF GRANITE

BRETT MCKINNEY

Plaintiff,

vs.

FEDERAL EXPRESS CORPORATION, a  
Delaware Corporation, and CORY MICHAEL  
PLUTE,

Defendants.

Cause No. *DV-08-20*

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW, the above-named Plaintiff, Brett McKinney, and for his cause of action against the Defendants, complains and alleges as follows:

I.

At the time of the incident alleged herein, Plaintiff, Brett McKinney, was a resident of the State of Idaho.

II.

At the time of the incident alleged herein, Defendant, Corey Michael Plute, was a resident of Butte, Montana, and an employee of Defendant, Federal Express Corporation, a Delaware corporation, authorized to do business in Montana.

III.

On or about June 10, 2005, in the course and scope of his employment with Federal Express Corporation, Corey Michael Plute negligently operated a truck owned by Federal Express Corporation on Montana Highway 1 south of Philipsburg, in Granite County, Montana, and caused a collision with a family vehicle being driven by Plaintiff, Brett McKinney. Brett McKinney's family, including his wife, Mylea McKinney, and children Zoe, Taylor and Madison McKinney, were passengers in the McKinney vehicle at the time of the collision.

IV.

Corey Michael Plute was negligent and reckless in the operation of the Federal Express Corporation truck at such time and place and was in violation of Montana statutory law. His negligent and reckless operation caused the collision described herein. Among the statutes he violated were Sections 61-8-328 and 61-8-336, M.C.A. As an employee at the time of the incident, Corey Michael Plute's negligence and recklessness is imputed to Federal Express Corporation.

V.

As a direct result of the negligence and recklessness of Corey Michael Plute, Brett McKinney incurred severe physical injuries, loss of ability to enjoy his established course of life, lost wages, pain and suffering, medical and physical therapy expenses, severe mental and emotional distress, and destruction of his motor vehicle. Brett McKinney continues to suffer pain and disability as a result of the collision and

will likely require future surgical and medical treatment causing him to incur future medical expenses, wage loss, and future pain, suffering and disability.

WHEREFORE, the Plaintiff respectfully requests judgment for the following:

1. Past, present and future medical expenses.
2. Past, present and future lost wages and loss of earning capacity;
3. Loss of ability to enjoy his established course of life;
4. Past, present and future mental and emotional distress;
5. Past, present and future physical pain and suffering;
6. Interest from the date of judgment at ten percent per annum; and
7. Such other and further relief as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

DATED this 6<sup>th</sup> day of June, 2008.

CHARLES R. JOHNSON, P.L.L.C.  
122 West Main Street  
P. O. Box 70  
Hall, MT 59837

By Charles R. Johnson  
Attorney for Plaintiff



CT Corporation

RECEIVED

APR 20 2012

RISK MANAGEMENT

**Service of Process  
Transmittal**

04/19/2012

CT Log Number 520362227



**TO:** Shunika Tunstall  
Federal Express Corporation  
3620 Hacks Cross Road, Third Floor  
Building B  
Memphis, TN 38125-

**RE: Process Served in Montana**

**FOR:** Federal Express Corporation (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Brett McKinney, Pltf. vs. Federal Express Corporation, etc., and Cory Michael Plute, Dfts.

**DOCUMENT(S) SERVED:** Letter, Summons, Complaint, Notice and Acknowledgement(s)

**COURT/AGENCY:** Granite County Third Judicial District Court, MT  
Case # DV0820

**NATURE OF ACTION:** Personal Injury - Vehicle Collision - On June 10, 2005 in the course of and scope of the employment with Federal Express corporation Corey Michael Plute negligently operated a truck owned by Federal Express corporation on Montana Highway 1 South of Philipsburg in Granite county and caused a collision with a family vehicle being driven by plaintiff and due to that plaintiff and his family sustains injuries

**ON WHOM PROCESS WAS SERVED:** CT Corporation System, Billings, MT

**DATE AND HOUR OF SERVICE:** By Certified Mail on 04/19/2012 postmarked: "Not Post Marked"

**JURISDICTION SERVED :** Montana

**APPEARANCE OR ANSWER DUE:** Within 20 days after service, exclusive of the day of service

**ATTORNEY(S) / SENDER(S):** Charles R Johnson, P.L.L.C.  
122 West Main Street  
P.O. Box 70  
Hall, MT 59837

**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex Priority Overnight  
Image SOP  
Email Notification, Cynthia Collins cjcollins@fedex.com  
Email Notification, Shunika Tunstall shunika.tunstall@fedex.com

**SIGNED:** CT Corporation System

**PER:** Amy McLaren

**ADDRESS:** 208 North Broadway  
Suite 313  
Billings, MT 59101

**TELEPHONE:** 800-592-9023

WILLIAMS LAW FIRM, P.C.  
MARK S. WILLIAMS, ESQ.  
NICHOLAS J. PAGNOTTA, ESQ.  
235 E. PINE, P.O. BOX 9440  
MISSOULA, MONTANA 59807-9440  
Tel: (406) 721-4350 Fax: (406) 721-6037  
*Attorneys for Defendant Federal Express*

**MONTANA THIRD JUDICIAL DISTRICT COURT, GRANITE COUNTY**

BRETT MCKINNEY,

Plaintiff,

-vs-

FEDERAL EXPRESS CORPORATION, a  
Delaware Corporation, and CORY MICHAEL  
PLUTE,

Defendants.


Hon. Ray J. Dayton  
**CAUSE NO.: DV-08-20**

**NOTICE OF REMOVAL**

Defendant FedEx Corporation hereby provides notice to the Court that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant has petitioned for removal of this action to the United States District Court for the District of Montana, Missoula Division. A copy of the Petition for Removal is attached as **Exhibit A**.

DATED this 8<sup>th</sup> day of May, 2012.

WILLIAMS LAW FIRM, P.C.  
Attorneys for Defendant FedEx  
Corporation

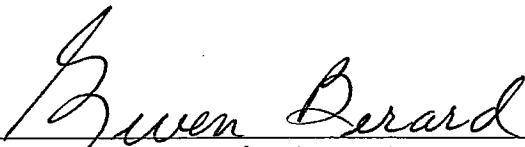
By   
Nicholas J. Pagnotta

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of May, 2012, a copy of the foregoing was served upon the following by Mail, Express Mail, Hand-Delivery, Fax, or Federal Express:

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*Attorney for Plaintiff*

☒ U.S. MAIL  
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☐ FAX  
☐ FEDERAL EXPRESS

  
\_\_\_\_\_  
Gwen Berard, Secretary